

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

**BROOKE HOLLOW, INC. d/b/a
GWYNETH SHOES**

Plaintiff,

Case No.

V.

ANTEBI FOOTWEAR GROUP, LLC
AND
PARIS HILTON

Defendants.

COMPLAINT AND JURY DEMAND

Plaintiff Brooke Hollow, Inc. d/b/a Gwyneth Shoes (“Gwyneth Shoes”) through its undersigned counsel, and for its Complaint against Defendants Antebi Footwear Group, LLC (“Antebi Footwear Group”) and Paris Hilton, states and alleges as follows:

I. INTRODUCTION

1. Gwyneth Shoes seeks monetary and injunctive relief against Defendants Antebi Footwear Group and Paris Hilton because they have: (1) willfully infringed and continue to willfully infringe Gwyneth Shoes' United States Design Patent; (2) have violated the Lanham Act, 15 U.S.C. § 1125(a); and (3) have infringed Gwyneth Shoes' common law trademark rights.

II. PARTIES

2. Brooke Hollow, Inc. d/b/a Gwyneth Shoes is a New York corporation with its principal place of business at 329 Washington Ave., Brooklyn, New York, 11205.

3. Antebi Footwear Group, LLC is a New York limited liability company with its principal place of business at 1370 Avenue of the Americas, Suite 403, New York, New York, 10019.

4. Upon information and belief, Paris Hilton is a resident of Los Angeles County in the state of California. Ms. Hilton has partnered with Antebi Footwear Group to design the Paris Hilton Footwear Line Collection, a brand of shoes manufactured, imported, and/or sold by Antebi Footwear Group.

III. JURISDICTION AND VENUE

5. This Court has jurisdiction over the subject matter of the dispute, because it involves claims arising under federal statutes and regulations.

6. This Court has jurisdiction over the parties because the Defendants conduct commerce within the judicial boundaries of this Court at least by offering to sell or selling infringing products at national department stores with branches located in Washington, including Macy's located at 800 Stewart St., Seattle, Washington, by advertising and selling infringing products on the Internet in a manner designed to reach customers in Washington, and by contributing to and inducing patent infringement in the state of Washington. Among other things, this Court has personal jurisdiction over Defendants pursuant to Wash. Rev. Code. § 4.28.185.

7. Venue is proper in this district under 28 U.S.C. § 1391(b) because it is the

1 judicial district in which a substantial part of the events giving rise to the claims occurred
2 and in which a substantial part of the property that is the subject of this action is situated.
3 Also, venue is proper in this judicial district under 28 U.S.C. § 1391(c) because Antebi
4 Footwear Group is a corporation, and Paris Hilton is a person, subject to personal
5 jurisdiction in this district.

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7 **IV. FACTS**

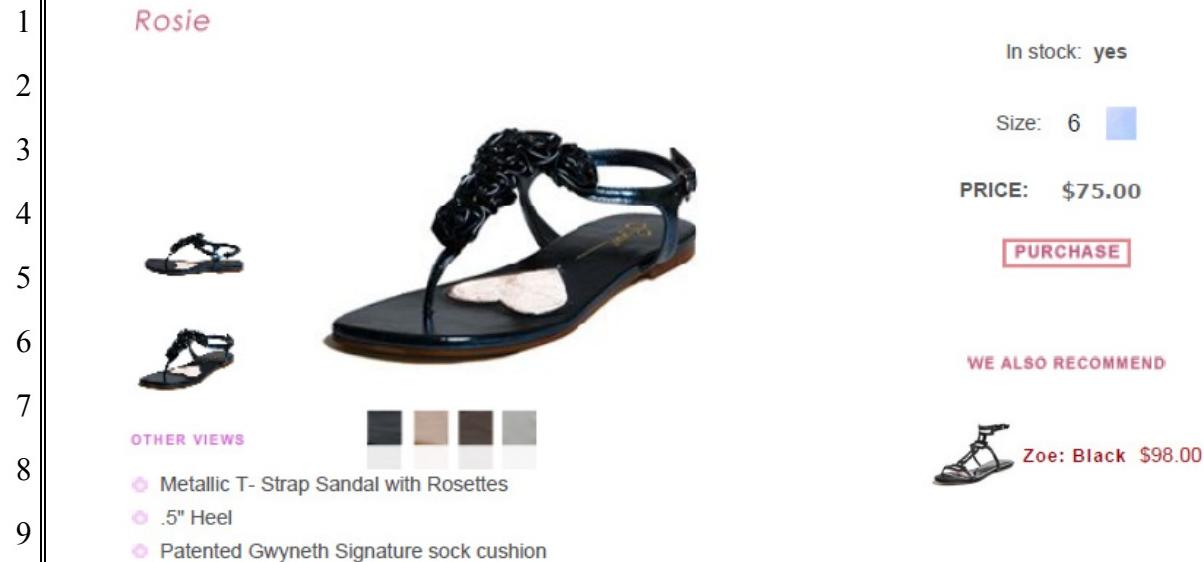
8 **Gwyneth Shoes' Business and Intellectual Property**

9 8. Gwendolyn Frempong-Boadu has been designing women's shoes for more
10 than twenty years. She has designed shoes for the *Reaction* line by Kenneth Cole and *Sam*
11 and *Libby* by Sam Edelman. Additionally, she helped to launch the \$40 million dollar plus
12 line *Steven* by Steve Madden.

13 9. In 2007, Ms. Frempong-Boadu founded Gwyneth Shoes, which features
14 comfortable, sophisticated shoes for women of all shoe sizes.

16 10. Gwyneth Shoes is the owner by assignment of United States Design Patent No.
17 D579,642, entitled "Shoe Sock Having a Heart Shaped Pad," which was filed on June 12,
18 2007 and which issued on November 4, 2008. See U.S. Patent No. D579,642 (Exhibit A)
19 ("the '642 Patent").

20 11. Gwyneth Shoes sells a variety of shoes from peep-toe pumps, to flats, to
21 platform sandals. Each GWYNETH® shoe comes equipped with the patented heart-shaped
22 shoe pad or shoe sock. Each GWYNETH® shoe heart-shaped shoe sock is pale pink. For
23 example, the following shows one of the shoe styles offered by Gwyneth Shoes:
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10 <https://www.gwynethshoes.com/store/index.php?productID=218> (Exhibit B).

11 12. GWYNETH® shoes are sold at a variety of traditional and on-line retailers
 12 including Gwyneth Shoes' on-line shoe boutique at www.gwynethshoes.com. See
 13 <http://www.gwynethshoes.com/store/index.php?categoryID=140> (Exhibit C). Gwyneth
 14 Shoes sells shoes through Amazon.com in Seattle, Washington.

15 13. Additionally, GWYNETH® shoes with the pale-pink, heart-shaped shoe socks
 16 have been advertised and promoted at a variety of trade shows across the country since at
 17 least July 2007, including without limitation the following: the WSA show in Las Vegas,
 18 Nevada; the FFANY show in New York City, New York; the Sole Commerce show in New
 19 York City, New York; the SMOTA show in Miami, Florida; the LA Transit show in Los
 20 Angeles, California; and the TRU show in San Francisco, California.

21 14. Gwyneth Shoes' pale-pink, heart-shaped shoe sock is distinctive and functions
 22 as a source and brand identifier for GWYNETH® shoes.
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15. Gwyneth Shoes has invested significant resources to build goodwill among customers with respect to the heart-shaped shoe sock featured in each pair of GWYNETH® shoes.

Paris Hilton Footwear Line Collection

16. On July 31, 2007 Defendant Paris Hilton, a well-known celebrity and entrepreneur, announced that she was joining forces with Defendant Antebi Footwear Group to create a line of shoes which were expected to become available in early 2008. See http://www.fashionwindows.com/visual/2007/paris_hilton.asp (Exhibit D).

17. Upon information and belief, Defendant Hilton participated with Defendant Antebi Footwear Group in the design of Paris Hilton Footwear Line Collection. *See Exhibit D; see also Exhibit E below.*

18. Upon information and belief, in August 2007, Defendant Hilton signed an agreement with Defendant Antebi Footwear Group to launch the Paris Hilton Footwear Line Collection.

19. Upon information and belief, Defendant Antebi Footwear Group and/or Defendant Hilton's representatives attended at least some of the same trade shows where Gwyneth Shoes displayed and promoted GWYNETH® shoes with the pale-pink, heart-shaped shoe socks prior to the launch of the Paris Hilton Footwear Line Collection.

20. On February 6, 2008, Defendant Hilton announced on her MySpace blog with respect to the Paris Hilton Footwear Line Collection that: "I personally chose the styling, design, materials and colors for the line and also wanted to make sure it was super comfortable! Each shoe has a heart shaped comfort pad sewn into the inner sole, so you can

1 dance all night long! I also made the soles of the shoes pink so no matter how you look at
2 them, they are super cute!" See
3 <http://blogs.myspace.com/index.cfm?fuseaction=blog.ListAll&friendId=6459682&page=6>
4 (Exhibit E).

5 21. Defendants have advertised and promoted the Paris Hilton Footwear Line
6 Collection at various trade shows including the WSA trade show in Las Vegas, FFANY
7 trade show in New York, and SMOTA trade show in Miami.

8 22. Upon information and belief, the Paris Hilton Footwear Line Collection
9 includes hundreds of different styles of shoes and each style includes a pale-pink, heart-
10 shaped comfort pad.

11 23. Upon information and belief, each pair of shoes in the Paris Hilton Footwear
12 Line Collection retails for between \$60-\$160.

13 24. The following is a photograph of a Paris Hilton Footwear sandal sold on-line at
14 www.zappos.com:



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25 <http://www.zappos.com/multiview/7635200/3> (Exhibit F).

1 25. Defendants' heart shaped comfort pad is substantially similar to the shoe sock
2 protected by the '642 Patent.

10 27. Specifically, Defendants have sold and/or offered for sale the Paris Hilton
11 Footwear Line Collection at Macy's department store in Seattle, Washington.

FIRST CLAIM FOR RELIEF
(Design Patent Infringement)

14 || 28. Paragraphs 1-27 are incorporated herein by reference.

15 29. Defendants have infringed the sole claim of the ‘642 Patent through, among
16 other activities, the manufacture, use, importation, sale and/or offer for sale of shoes with
17 the heart shaped comfort pad in violation of 35 U.S.C. § 271.

19 30. Defendants, through their actions, have contributed to and induced the
20 infringement of the ‘642 Patent in violation of 35 U.S.C. § 271.

31. Upon information and belief, Defendants' infringement has been willful.

22 32. Defendants' infringement has injured and is continuing to injure Gwyneth
23 Shoes and it is thus entitled to preliminary and permanent injunctive relief, and an award of
24 damages, in an amount to be proven at trial, as compensation for the acts alleged herein.

SECOND CLAIM FOR RELIEF
(FALSE DESIGNATION OF ORIGIN UNDER THE LANHAM ACT)

33. Paragraphs 1-32 are incorporated herein by reference.

34. The heart-shaped shoe sock featured in each pair of GWYNETH® shoes is source indicating, and has become favorably associated with Gwyneth Shoes.

35. The heart-shaped shoe sock featured in each pair of GWYNETH® shoes is inherently distinctive and has acquired distinctiveness through promotion and use of this mark for more than two years in connection with GWYNETH® shoes.

36. Defendants' use of the heart-shaped comfort pad in connection with the Paris Hilton Footwear Line Collection is likely to cause confusion, mistake or deception as to origin, sponsorship or approval of Plaintiff's goods, namely its GWYNETH® shoes.

37. Defendants' conduct has confused and misled customers and/or was done with the purpose of confusing and misleading customers.

38. The actions alleged herein violate section 43(a) of the Lanham Act, 15 U.S.C. §1125(a).

39. Defendants' violation of 15 U.S.C. § 1125(a) has injured and is continuing to injure Plaintiff and it is thus entitled to preliminary and permanent injunctive relief, and an award of damages, in an amount to be proven at trial, as compensation for the acts alleged herein.

THIRD CLAIM FOR RELIEF
(COMMON LAW TRADEMARK INFRINGEMENT)

40. Paragraphs 1-39 are incorporated herein by reference.

41. Defendants' use of the heart-shaped comfort pad in connection with the Paris Hilton Footwear Line Collection infringes on Plaintiff's common law trademark rights.

42. Defendants' infringement has injured and is continuing to injure Plaintiff and it is thus entitled to preliminary and permanent injunctive relief, and an award of damages, in an amount to be proven at trial, as compensation for the acts alleged herein.

PRAAYER FOR RELIEF

WHEREFORE, Gwyneth Shoes prays that this Court:

A. Grant preliminary and permanent injunctive relief requiring Defendants and their officers, agents, servants, employees, and attorneys, and all persons in active concert with any of them who receive actual notice of the Court's order to:

(i) Cease using the heart-shaped shoe cushion or any other shoe cushion that infringes and/or is substantially similar to Gwyneth Shoes' '642 Patent;

(ii) Cease using the heart-shaped shoe cushion or any other shoe cushion that is confusingly similar to Plaintiff's heart-shaped shoe sock;

(iii) Deliver to Plaintiff or its designated representatives all goods, signs, advertising, and promotional materials relating to the Paris Hilton Footwear Line Collection containing a heart-shaped shoe cushion; and

(iv) Cease infringing Gwyneth Shoes' patent and trademark rights in the heart-shaped shoe sock.

B. Awarding to Plaintiff and assessing against Defendants damages in an amount to be determined at trial, including prejudgment and post-judgment interest, and trebling such damages under the circumstances of this case.

C. Awarding to Plaintiff and assessing against Defendants punitive or exemplary damages.

D. Awarding to Plaintiff and assessing against Defendants the costs, expert witness fees, and reasonable attorneys' fees incurred in connection with this action.

E. Granting such other and further relief as this Court deems just and proper.

JURY DEMAND

Gwyneth Shoes demands a trial by jury on all issues so triable.

Executed at Seattle, Washington this 23rd day of December, 2009.

s/ Regina V. Culbert
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